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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,248	11/12/2003	Jeffrey Alan Middlesworth	503 US	3193
53476 7590 10/30/2007 TROUTMAN SANDERS, LLP 5200 BANK OF AMERICA PLAZA 600 PEACHTREE STREET, NE ATLANTA, GA 30308				
EXAMINER				
RUDDOCK, ULA CORINNA				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
10/30/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/705,248

Applicant(s)

MIDDLESWORTH ET AL.

Examiner

Ula C. Ruddock

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-22, 26-29, 34, 37 and 39-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 45-50 is/are allowed.
- 6) ☒ Claim(s) 20-22, 26-28, 34 and 39-44 is/are rejected.
- 7) ☒ Claim(s) 29, 37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 20, 2007, and August 6, 2007, has been entered.
2. The Examiner has carefully considered Applicant's amendments and accompanying remarks filed June 20, 2007. The 112, 1st paragraph rejection has been overcome.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

4. Claims 20-22, 26-28, 34, 39, 40, 41, 42, 43, 44, and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nissing (US 6,270,875). Nissing discloses a wiping article having a first layer and a second plastic film layer. The first layer has an extensibility greater than the film layer. The first layer can be a dry creped web of cellulosic fibers and the second layer can be an apertured, three-dimensional plastic film (abstract). The first layer is joined to the second layer via an adhesive bond pattern (col 4, ln 10-57). The first layer is a nonwoven layer that has at least 25% extensibility and can be made of cellulosic fibers (i.e. wood pulp). The first layer is preferably creped (col 6, ln 21-43). The second layer is preferably apertured and can be formed from a polyethylene or polypropylene film material (col 7, ln 21-26). The wipe may comprise a third

layer, which can also be a cellulosic nonwoven creped layer (col 8, ln 51-67 to col 9, ln 1-10).

Nissing discloses the claimed invention except for the teaching that the bonding points occur between a plurality of points on the first surface of the elastic layer and a plurality of high points on the nonwoven layer.

It would have been obvious to one having ordinary skill in the art to have limited the bonding to a plurality of points on the first surface of the elastic layer and a plurality of high points on the nonwoven layer, motivated by the desire to create a composite that has increased dimensional stability and lamination strength.

Regarding claim 39, in the absence of unexpected results it would have been obvious to one having ordinary skill in the art to have made the perforated elastic layer have an elongation to break of at least 50%, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. In the present invention, one would have optimized the elongation to break motivated by the desire to create a composite that has the desired pliability.

Rejection is maintained.

Response to Arguments

5. Applicant's arguments filed June 22, 2007, have been fully considered but they are not persuasive for the reasons set forth. Applicant argues that Nissing does not teach bonding a creped nonwoven to an elastic film. This argument is not persuasive because Nissing's film layer is made of polypropylene or polyethylene, which are also used to make up the film layer of the present invention. Therefore, Nissing's film would have a degree of elasticity. While Nissing

specifically discloses that the nonwoven layer has "an extensibility greater" than the film layer, it does not teach that the film layer has no extensibility or elasticity. Furthermore, it should be noted that Applicant's claims do not disclose a degree of extensibility. Therefore, the Nissing rejection is maintained.

Allowable Subject Matter

6. Claims 29 and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. Claims 45-50 are allowed.
8. The following is a statement of reasons for the indication of allowable subject matter: no prior art was found to teach the claimed limitations in independent claims 45 and 48.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/U. C. R./

/Ula C Ruddock/
Primary Examiner, Art Unit 1794